



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

James & Deborah Jackson/Map 131, Lot 15

December 6, 2012

Applicant: James & Deborah Jackson
6 Hickory Ridge Road
Plaistow, NH 03865

Location: 264 Wentworth Shores Road, Moultonborough, NH (Tax Map 131, Lot 15)

On December 5, 2012 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application for James and Deborah Jackson (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III, B (4) to allow for the removal and replacement of an existing bunkhouse located within the 50' shoreline setback for the parcel located in the Residential Agricultural (RA) Zoning District.

Based on the application, testimony given at the hearing, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 264 Wentworth Shores Road (Tax Map 131, Lot 15).
- 2) The applicants are the owners of record for the lot.
- 3) The lot is located in the Residential Agricultural (RA) Zoning District.
- 4) The applicants are proposing the removal and replacement of an existing bunkhouse located within the 50' shoreline setback.
- 5) The Applicant has received a Shoreland Permit by Notification (# 2012-03092) from the NH DES.
- 6) No members of the public spoke for or against the Variance request.
- 7) Granting the Variance will not be contrary to the public interest as allowing the existing bunkhouse to be rebuilt in the same location and with the exact dimensions as the existing structure will not alter the essential character of the neighborhood or threaten the health, safety or general welfare of the public.
- 8) Granting the Variance is consistent with the spirit of the Ordinance as the goals and intent of the zoning ordinance with regard to the 50 ft. setback requirement to the lake shore are not changed with the

replacement in the same place and size; in fact fewer impacts will occur when this happens as opposed to disturbing the vegetation and ground on the singular area next to the dwelling where this could be rebuilt.

- 9) Substantial justice is done as the proposed removal and replacement in the same size and location perpetuates the status quo, and therefore, since the rebuilding of this has only one possible small area (approx. 10 ft. x 20 ft. directly adjacent to the dwelling) on the lot that could meet all setbacks that may for practical purposes have to be made part of the dwelling (as an addition) and that the layout of the interior of the dwelling may not lend itself to this, denial would be a loss to the applicant. Conversely, granting would serve justice for the applicant.
- 10) Granting the Variance does not diminish the value of surrounding properties as the proposed bunkhouse will maintain the status quo while replacing old with new conditions, which will add value to the property, which can increase the value of surrounding properties, as well.
- 11) No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the purpose of the zoning ordinance with regard to the 50 ft. setback requirement to the lake shore is not changed with the replacement in the same place and size; in fact fewer impacts will occur when this happens as opposed to disturbing the vegetation and ground on the singular area next to the dwelling where this could be rebuilt. Additionally, it may have to be an addition to the dwelling which increases the unnecessary hardship on the applicant.
- 12) The Zoning Board of Adjustment voted by a vote of three (3) in favor (Stephens, Zewski, Bickford) and two (2) opposed (Nolin, King), to Grant the request for a variance and to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision, to be reviewed by the Board at the December 19, 2012 Regular Meeting.

The Board of Adjustment, on December 19, 2012, by a vote of four (4) in favor (Stephens, Nolin, Zewski, Bickford), none (0) opposed, and one (1) abstention (Crowe) to direct the Chairman to sign the Notice of Decision and to be sent to the applicant and placed in the case file.

The decision made to Grant the variance on December 5, 2012 shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date 12-20-2012